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Executive Registry

74-2866

17 September 1974

The President
The White House
Washington, D. C. 20500

Dear Mr. President:

Attached is a recapitulation of the Congressional oversight of CIA activities as requested by Secretary Kissinger.

CIA's relations with Congress are on three levels:

a. Where appropriate (although infrequently), CIA appears in open session or releases testimony given in executive session when it is neither classified nor revealing of intelligence sources and methods.

b. In executive session, CIA appears before a variety of committees to provide substantive intelligence data and assessments. We use our most sensitive sources as the basis for such testimony, but we do not reveal or discuss them or our operations.

c. Oversight of our operations is conducted by Appropriations and Armed Services Subcommittees in executive session. No matters are held secret from these committees, and it is my obligation to volunteer to them matters of possible interest.

The above arrangement is longstanding and has been subject to various attempts to change it over the years. In particular, the Foreign Affairs Committees have pressed for greater exposure to our operational activities.

In my confirmation hearings and publicly I have taken the position that CIA will respond to Congress' oversight in any method established

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by the Congress, but that I propose to continue the established procedures until the Congress changes them. This is of course only a reflection of the Constitutional independence of the Congress and its power, in extremis, to legislate with respect to our authorities or appropriations. A bill currently exists in both Houses which would amend the National Security Act to provide that CIA's activities be reported to the Congress 'in such manner as the Congress determines.' I have indicated support of this amendment.

The attached paper presents on page 12 certain options for your consideration as to how this matter might be handled in the future. These might be used by you as the basis for the discussions you indicated you intend to have with the Congressional leadership. I would be pleased to discuss this with you further at your convenience.

Respectfully,

/s/ Bill

W. E. Colby
Director

Attachment

WEC:blp

Distribution:

- Original - Addressee via Secretary Kissinger (delivered to Rob Roy Ratliff on 17 September 74)
- 1 - OLC
- 1 - OGC
- ① DDCI
- 1 - DCI
- 1 - ER
- 1 - Assistant to the Director

NOTE: Copy also sent to Governor Rockefeller (w/atts) with covering note from DCI (on 18 September 74)

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*This is a duplicate of
the attachments
to 74-2866.*

A. GENERAL

CIA was established as part of the National Security Act of 1947. The Agency's enabling legislation, the Central Intelligence Agency Act of 1949, provided for the general administration of the Agency and exempted the Agency from normal reporting requirements which could compromise Agency security. On the basis of the provisions of this latter Act, the CIA appropriation is handled securely and the organization, its functions, and the names of its personnel are protected.

1. The Armed Services Committees (on the basis of jurisdiction over the legislation) and the Appropriations Committees (to approve funds) have exercised continuous legislative oversight.

(a) The Committee on Expenditures in the Executive Departments (now the Committee on Government Operations) actually held hearings and reported out the National Security Act of 1947 but under the new Legislative Reorganization Act the House Armed Services gained permanent jurisdiction.

(b) In the Senate the corresponding Committee on Expenditures challenged the referral of the National Security Act of 1947 to the Armed Services Committee, but it was defeated when the Senate upheld the ruling of the President pro tem.

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(c) From time to time the Government Operations Committees particularly on the House side have insisted on a right of congressional oversight of the economy and efficiency with which the Agency conducts its activities. Up to now the issue has not been joined, essentially as a result of our voluntary cooperation with their various investigations or informal handling between committees. Chairman Holifield has been generally supportive of the Agency position. Mr. Moorhead and Mr. Moss being most interested in asserting some type of jurisdiction.

(d) The Senate Foreign Relations Committee, over recent years has pressed to extend its jurisdiction over intelligence activities through the efforts to establish the overall authority abroad of State, which it oversees, and to include broad limitations on funding of programs principally administered by CIA.

B. CHRONOLOGICAL DEVELOPMENTS

1. 1947 through early 1950's - Oversight was benign.

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(a) Controlled by strongly entrenched congressional leadership and senior chairmen.

(b) Cold war psychology--rank and file not pre-disposed to interference.

(c) On the appropriation side, the basic concern was--do you have enough money?

2. Late 1950's

(a) Record of infrequent briefings of oversight committees leads to Senator Mansfield's initiative for Joint Committee (defeated in 1956 by vote of 59 to 27, with 12 original sponsors opposing the resolution).

(b) Sputnik era triggered wider congressional interest in Agency information on the Soviet threat. Agency initiated program of debriefing members of Congress who had travelled abroad, inviting them to visit Agency facilities and on occasion field installations.

3. Early 1960's

(a) The Agency furnished intelligence briefings to a number of committees including the Joint Committee on Atomic Energy on the Soviet nuclear energy program, and general intelligence briefings to House Foreign Affairs and

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the Senate Foreign Relations Committee, Soviet space program briefings to the House Science and Astronautics Committee and Senate Aeronautical and Space Sciences Committee, and Soviet military posture briefings to the full Armed Services Committees and the Defense Subcommittee of House Appropriations.

(b) Pressure continued to grow for a Joint Intelligence Committee which spurred the CIA Subcommittee of House Armed Services to examine Agency activities rather intensively.

(c) Chairman Vinson appointed Representative Paul J. Kilday as Chairman of the CIA Subcommittee of House Armed Services with the mandate to give CIA more attention.

(d) The "Soviet Missile Gap" argument in the 1960 Presidential election spurred further interest in the Agency's intelligence product.

(e) The U-2 flight of Gary Powers over the Soviet Union and the Bay of Pigs invasion heightened congressional debate and the Cuban missile crisis of 1962 refocused attention on the Agency's capabilities.

(f) Reflecting Senator Russell's growing responsibilities for appropriations matters, sessions of the CIA Subcommittee

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of Senate Armed Services and Senate Appropriations were held in joint session. Even so by 1965 Agency briefings of these Subcommittees rose to 34 as contrasted with 9 the previous year.

4. Late 1960's

(a) In 1966, the Foreign Relations Committee reported a resolution to establish a Joint Committee on Intelligence with Senator Russell defeating the move by 61-29 on jurisdictional grounds.

(b) In 1967 the Agency undertook a programmed effort to contact and brief all new members of Congress on the Agency.

(c) 1967 was also the year of exposure of Agency funding of the National Student Association.

(d) In 1969 the Agency's intelligence product came to the front again on the ABM system leading to a closed session of the Senate to discuss the classified aspects of the subject including data provided by the Agency.

(e) Legislative initiatives were beginning to be proposed in an effort to circumscribe executive action through CIA principally in Southeast Asia.

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5. 1970's

(a) The congressional structure which has for a quarter of a century served to shield the Agency from intrusion or attack by the rank and file membership is in a state of flux. The Russell's and Rivers' are gone. McClellan is 78, Mahon is 74, and Stennis and Hebert are 73. Men down the seniority lists have become suspicious or jealous over the secretive manner in which the oversight responsibilities have been exercised and their ranks are being periodically reinforced by newly elected younger members. Many feel Agency information and Agency activities should be more broadly accessible to the Legislative Branch, and particularly to the Foreign Relations and Foreign Affairs Committees.

(b) In 1971, as a result of the limitation by the Democratic Caucus on subcommittee chairmanships and taking note of the writing on the wall, Chairman Hebert appointed Representative Lucien N. Nedzi (D., Mich.) as Chairman of a rejuvenated Intelligence Subcommittee of House Armed Services Committee. Nedzi has proved to

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be an invaluable ally in dealing with problems in the House because of his reputation for diligence, thoroughness, objectivity, and skepticism.

(c) In an analogous reaction to the changed political atmosphere in the Senate, both Chairmen Stennis and McClellan have changed earlier practices. Thus both now regularly take transcripts. Senator McClellan invited Senator Church to attend and participate in a Subcommittee meeting on (no leaks occurred) and Senator McClellan has offered any Senator the specifics of CIA's budget on a classified basis (Tab A).

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(d) Many members while sharply critical of foreign and defense policy appear to have a high regard for the Agency's intelligence product, fearful only that the Agency's capabilities in the covert action field may be misused by an Administration. They are anxious to have a closer relationship with the Agency and thus more influence on its activities. Others are highly supportive in foreign and defense fields, but are anxious to avoid battle on issues such as the Agency's covert action authorities.

C. CURRENT CONGRESSIONAL OVERSIGHT PROCEDURES

1. Under existing guidelines so far supported by the chairmen of our oversight committees, Agency operational activities are reported solely to the four oversight committees.

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2. Security Precautions: In formal sessions before these subcommittees, the following security procedures are followed:

(a) Only selected staff members of the subcommittee (no personal staff of members) are permitted to attend.

(b) Each hearing is preceded by a technical sweep for audio-surveillance devices and technical monitoring is maintained throughout the briefing.

(c) When transcripts are taken, only a reporter with Top Secret clearance is used and the Agency maintains control over the shorthand notes. The transcripts are placed under controls agreed to by the Committees and the Agency.

(d) Under House rules all members are entitled access to all Committee records. (Tab B)

(e) The membership of the four oversight Subcommittees are set forth in Tab C.

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(5) A Joint Committee on Intelligence might be established with members from Appropriations, Armed Services, Foreign Affairs and Government Operations, with a separate staff. The resolution establishing it should clearly state that it will have access to all information but that no information about intelligence sources and methods will be made available to other committees or Members without a specific congressional resolution.

(6) All of the above, of course, would have to be worked out with the appropriate leadership and, in addition, the President might want to consult the leadership as to other alternatives.

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On 4 June 1974 the Senate by a vote of 55 to 33 defeated an amendment to the Defense Procurement Authorization bill (S. 3000) which would have required the Director of Central Intelligence to submit an annual unclassified report to the Congress disclosing the total amount of funds requested in the budget for the National Intelligence Program.

A number of Senators, including the Chairman of the Agency's Oversight Committees in the Senate, strongly opposed the amendment on the basis that such disclosures would provide valuable assistance to our adversaries by virtue of the trends disclosed over the years and that the publication of the total figure would only stimulate further inquiry for greater detail on foreign intelligence activities, for explanations of changes or trends, and for the component elements of the total figure.

They also pointed out that the four committees charged with oversight of the Agency in the Congress are fully aware of the details of the foreign intelligence budget and inquire into these matters deeply. The point was also made that if any member of the Senate wished to know what the total figure was it would be furnished to him on a classified basis.

The discussion on the amendment is covered on pages S. 9601-9613 in the Congressional Record of 4 June 1974. Excerpts follow:

Senator Stennis: " . . .
has been worth to us billions and billions
of dollars in savings. But, if
we are going to abandon the idea of
keeping these figures from being dis-
closed, then, in my humble opinion, we
might as well abolish the agency. It
would be like saying, in effect, that we
do not want this secret intelligence after
all, that we do not need it, and that we
will abandon it.

True, we are an open society and, so
far, we have been able to carry on an
intelligence program effectively which
has been worth to us billions and billions
and billions of dollars in savings. But, if
we are going to abandon the idea of
keeping these figures from being dis-
closed, then, in my humble opinion, we
might as well abolish the agency. It
would be like saying, in effect, that we
do not want this secret intelligence after
all, that we do not need it, and that we
will abandon it.

We will pay an awful price for that.
I am familiar with the CIA budget.
I can satisfy most any Senator in the
cloakroom, talking to him some about
this, but I will publicly say that it is a
clean budget and they have justified
many times over the expenditure of the
money. "

Senator Pastore: " . . .

We have to know
what they are doing, do we can know
what we have to do in order to guarantee
the security of our own country.
So we cannot come out here and tell
the whole world, "We spent \$1 billion or
\$2 billion for the Central Intelligence
Agency." What does that mean to any-
one else, except that perhaps some people
think they are spending too much. And
the minute the question is asked where
they are spending it we are in serious
trouble.

So what happens to your children and
my children, Mr President? What hap-
pens to you when you go home tonight?
What happens tomorrow? What hap-
pens to the security of our country?
Can we afford to tell them? Oh yes, I
would like to tell the public everything it
is possible to tell them. I believe in that.
I have been in public life continually for
40 years. I believe in the right of the
public to know. But I certainly would
not come to the floor of the Senate and
tell you, Mr. President, how to put to-
gether an atom bomb. I would not tell
you that. I would not tell you how far
our nuclear subs are able to travel; I
would not tell you how we can detect an
enemy sub; and I would not tell you how
they might detect ours. I would not tell
you that. Why would I not tell you that?
I would not tell you that because the
minute I told you that I would jeopardize
the future of your children.

I have sat down with the Senator from
Wisconsin (Mr. PROXMAS), the Senator
from California (Mr. CRANSTON), to find
a solution, and I have sat down with Mr.
Colby, who is a great American. He said,
"Please do not do this. If you want to
make my job easier, please do not do
this." I cannot sit there after that ad-
monition and exhortation and turn
around and say, "Mr. Colby, I do not
believe what you have to say." If I be-
lieved that for 1 minute, I would say,
"You ought to give up your job." . . . "

Senator Humphrey: " "

Mr. President, I rise to commend the Senator from Rhode Island and to associate myself fully with his comments. The Senator pointed out very properly that the Central Intelligence Agency has in the past engaged in activities that have been looked upon by certain Members of the Congress as undesirable; but I want to make it clear that every one of those activities had been ordered by a President. The Central Intelligence Agency does not just engage in activities for the love of work. I know that the Central Intelligence Agency, during the Kennedy years and the Johnson years, was engaged in activities in Laos—

. . .

Mr. President, the Central Intelligence Agency is possibly the most important agency in this Government. By and large, it is made up of people who are competent, able, and who have served this country well and faithfully. To be sure, there are times when it has engaged in activities, as we have said, that are looked upon with suspicion; but I think it would be folly for us to publicize all of its activities, to publicize the amounts it receives, particularly when there are ways and means within this body and within the other body of Congress to supervise it and to keep a check rein upon it.

. . .

I had the privilege of serving on the National Security Council, and I want to tell my colleagues that the Central Intelligence Agency was the most accurate and effective instrument of Government for that council. Its reports were most accurate, and had we followed the advice of the Central Intelligence Agency in many areas, we would have been better off, but at least it was there.

. . .

But just as surely as we are in this body today debating whether or not we ought to have a release of the figure, next year it will be whether it is too big or too little, and then it will be what is in it. Then when we start to say what is in it, we are going to have to expose exactly what we have been doing in order to gain information; for example, years ago as to where the Soviet Union was building its nuclear subs and the kind of nuclear subs they were. I saw that material in 1965—how far they were along, what their scientific progress was. I do not think it would serve the public interest for all of that information to have been laid out. It would have destroyed our intelligence gathering completely. . . ."

Senator McClellan: ". . .

But, let us bear in mind that if we are to have a security intelligence agency, we cannot have it with national publicity on what it does, how it does it, and how much it spends here, or how much it spends there. . . ."

Senator Stennis: ". . .

On my responsibility to my colleagues, they in CIA keep a clean house. They have had a conservative operation dollar-wise and have accounted for the money in a splendid way. That has been true without exception. There has been no great spillage of money or great extravagances, and not one bit of scandal or odor of any kind. . . ."

Senator Thurmond: ". . .

I believe that our Nation is unique in the attention its legislature has given to specifying and circumscribing the activities of the agency designated to perform its foreign intelligence mission. . . ."

Senator Proxmire: ". . .

Mr. President, the purpose of the amendment which I am offering now is to provide that the overall figure for the intelligence community as a whole, not broken down but the overall figure, would be made available, so that the taxpayers of this country would have some idea of how much, how many billions of dollars—and it is billions of dollars—are going for intelligence efforts by our Government.

. . . .

Now just what would this tell our adversaries? They would not know if it all went to the CIA, or DIA. Whether the NSA spent most of the money, or the Air Force.

How about yearly fluctuations? Say for example, that the budget went up 10 percent in 1 year. What would they conclude? That manpower was more expensive? That the CIA was spending more for Laos? That the DIA had bought a new computer division? That NSA was hiring more people? They would know nothing. . . ."

Senator Hughes: " . . .

The threat will come from losing control on the inside. If maintaining that control requires an ounce of risk, then I think we should be prepared to take that ounce of risk in at least letting us see publicly and the people see publicly whether we are spending \$3 billion, \$7 billion, or \$90 billion, and how we are concealing it and hiding it, and if we are protecting ourselves from the inside as well as from the outside.

I think that ounce of risk, if it exists, is worth taking, and I thank the distinguished Senator from Wisconsin for yielding. . . . "

Senator Jackson: " . . .

In summary, our foreign intelligence service arises out of an act of Congress and all of its activities are closely scrutinized by a number of representative members of both the Senate and the House of Representatives. This is how we have resolved the balance between the needs of an open society and the needs for a secret foreign intelligence service. I certainly do not think that this is the time to unbalance the situation as I am confident enactment of the proposed amendment would do.

Senator Young: " . . .

I know there is great interest in the public knowing everything possible, but I think there are some things that should be kept secret for our own security. "

RULES OF THE HOUSE OF REPRESENTATIVES

§ 735.

Rule XI.

record vote is demanded. The result of each rollcall vote in any meeting of any committee shall be made available by that committee for inspection by the public at reasonable times in the offices of that committee. Information so available for public inspection shall include a description of the amendment, motion, order, or other proposition and the name of each Member voting for and each Member voting against such amendment, motion, order, or proposition, and whether by proxy or in person, and the names of those Members present but not voting. With respect to each record vote by any committee on each motion to report any bill or resolution of a public character, the total number of votes cast for, and the total number of votes cast against, the reporting of such bill or resolution shall be included in the committee report.

The first part of this paragraph was derived from Sec. 133(b) of the Legislative Reorganization Act of 1946 (60 Stat. 812) and made part of the standing rules on January 3, 1953, p. 24. The requirements that committee roll calls be subject to public inspection and that the committee report on a public bill or resolution include the vote thereon, were added by Sec. 104(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and made a part of the rules on January 22, 1971, p. —, H. Res. 5.

*Rule XI
27c* (c) All committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the Member serving as chairman of the committee; and such records shall be the property of the House and all Members of the House shall have access to such records. Each com-

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RULES OF THE HOUSE OF REPRESENTATIVES

Rule XI.

§ 735.

mittee is authorized to have printed and bound testimony and other data presented at hearings held by the committee.

This provision from Sec. 202 (d) of the Legislative Reorganization Act of 1946 (60 Stat. 812) was made a part of the standing rules January 3, 1953, p. 24.

(d)(1) It shall be the duty of the chairman of each committee to report or cause to be reported promptly to the House any measure approved by his committee and to take or cause to be taken necessary steps to bring the matter to a vote.

(2) In any event, the report of any committee on a measure which has been approved by the committee shall be filed within seven calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the clerk of the committee a written request, signed by a majority of the members of the committee, for the reporting of that measure. Upon the filing of any such request, the clerk of the committee shall transmit immediately to the chairman of the committee notice of the filing of that request. This subparagraph does not apply to a report of the Committee on Rules with respect to the rules, joint rules, or order of business of the House or to the reporting of a resolution of inquiry addressed to the head of an executive department.

(3) If, at the time of approval of any measure or matter by any committee (except the Committee on Rules) any member of the committee, gives notice of

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September 1974

CIA SUBCOMMITTEES

SENATE APPROPRIATIONS

INTELLIGENCE OPERATIONS

✓ John L. McClellan (D., Ark.), Chairman
John C. Stennis (D., Miss.)
John O. Pastore (D., R.I.)
✓ Milton R. Young (R., N. Dak.)
Roman L. Hruska (R., Nebr.)

SENATE ARMED SERVICES

CIA SUBCOMMITTEE

John C. Stennis (D., Miss.), Chairman
Stuart Symington (D., Mo.)
Henry M. Jackson (D., Wash.)
Peter H. Dominick (R., Colo.)
Strom Thurmond (R., S. C.)

HOUSE ARMED SERVICES

SPECIAL SUBCOMMITTEE ON INTELLIGENCE

Lucien N. Nedzi (D., Mich.), Chairman
F. Edward Hebert (D., La.)
Melvin Price (D., Ill.)
O. C. Fisher (D., Texas)
William G. Bray (R., Ind.)
Leslie Arends (R., Ill.)
Bob Wilson (R., Calif.)

HOUSE APPROPRIATIONS

"SPECIAL GROUP"

George H. Mahon (D., Texas), Chairman
Jamie L. Whitten (D., Miss.)
Robert L. F. Sikes (D., Fla.)
William E. Minshall (R., Ohio)
Elford A. Cederberg (R., Mich)

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